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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/538,752	03/30/2000	Jay S. Walker	99-075	8956
22927	7590	01/29/2004	EXAMINER	
WALKER DIGITAL FIVE HIGH RIDGE PARK STAMFORD, CT 06905			RADA, ALEX P	
			ART UNIT	PAPER NUMBER
			3714	9
DATE MAILED: 01/29/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/538,752

Applicant(s)

WALKER ET AL.

Examiner

Alex P. Rada

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

In response to the amendment filed August 29, 2003 in which the applicant has canceled claims 35-39 and requests reconsideration for the previous office action mailed February 26, 2003.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5, 7-9, and 19-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Nelson '268.

3. Nelson discloses a game determining that the hand, a plurality of separate or multiple hands has resulted in a push (64) and based on a random outcome (74), determining if the player has won the hand, a plurality of separate or multiple hands of blackjack, in which the examiner takes the position of playing more than one hand of blackjack as recited in claims 1, 25-33; receiving from the player a wager amount (44) prior to the determining that the hand of blackjack resulted in the push and determining if the player has won the hand of blackjack (64) and arranging for the player to receive payment of a winning amount based on the wager amount (figure 5 and column 5, lines 31-48) as recited in claim 2; deciding if the push will be resolved (64) as recited in claim 3; determining that the hand of blackjack has resulted in the push (64),

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the player indication of whether the push will be resolved (64 and column 5, lines 31-48) as recited in claim 4; displaying an indication of the random outcome to the player, in which the examiner interprets the way the cards are resolved in block 74 as recited in claim 5; generating the random outcome, in which the examiner interprets the way the cards are resolved in block 74 as recited in claim 7; the generating is performed after the determining that the hand of blackjack has resulted in the push (64) as recited in claim 8; generating is performed in response to the determining that the handoff blackjack has resulted in the push (64) as recited in claim 9; arranging for the player to receive payment of a winning amount as recited in claim 19; the winning amount is based at least in part on the random outcome, in which the examiner takes the position of the rules of payment is dependant of the gaming establishment as recited in claim 20; displaying the winning amount to the player, in which the examiners takes the position of the dealer presenting the winning amount in front of the player as recited in claim 21; the winning amount is based at least in part on at least one of information associated with the player, in which the examiners position is the information of the player's wager amount as recited in claim 22; the random outcome having a first and a second state indicating a win or a loss, in which the examiners position is the dealer announcing to the player of a win or loss as recited in claim 23; at least two of a plurality of states (66, 68, or 70) associated with different winning amounts as recited in claim 24

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 10-12, 16-18, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson '268 in view of Lofink '064.

6. Nelson further discloses receiving from a player a wager amount (44), determining that the hand of blackjack has resulted in a push, based on a random outcome (74), determining if the player has won the hand of blackjack, displaying to the player an indication of at least one the random outcome (74) and the determination if the player has won the hand of blackjack, and the player receiving payment of a winning amount based on the wager as recited in claim 34 and the rest of the claimed invention as discussed above except for the generating is performed using at least one die, random number generator, and rotating wheel as recited in claims 12 and 14-15; initiating a random outcome generator, receiving an indication of a random outcome being statistically independent of the hand of blackjack played prior to the push as recited in claims 11 and 34.

Lofink teaches different types of generating devices like at least one die, random number generator, and rotating wheel, which is capable of having a random outcome statistically independent prior to the push (tie). By having different types of generating device, one of ordinary skill in the art would provide game players a faster pace game while enticing participation from new game players. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the applicant's invention was made to modify Nelson to include the generation of random outcomes by at least one die, random number generator, and

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rotating wheel as taught by Lofink. To do so would provide game players a faster pace game while enticing participation from new game players.

At the time the invention was made, it would have been an obvious design choice to a person of ordinary skill in the art to provide different types of items to generate a random outcome because Applicant has not disclose generating a random outcome being performed prior to the determining the hand is a blackjack and generating a random outcome by a coin, a set of playing cards as recited in claims 10, 13 and 16-18 does not provide an advantage, is used for a particular purpose, or solves a stated problem when compared to the prior art. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the different types of items to generate a random outcome as taught by Lofink because having a coin or a deck of cards would provide the same random outcome to resolve a tie situation in a game.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1-34 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Rosenberg '882 discloses a game wherein a coin is used to break a tie (column 8, lines 66-68).


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex P. Rada whose telephone number is 703-308-7135. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

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Apr



MARK SAGER  
PRIMARY EXAMINER